

I certify that the attached is a true and
correct copy of HB 1329, which
was filed of record on FEB 21 1989
and referred to the committee on:

Natural Resources

Betty Munnay

Chief Clerk of the House

1989 MAR -8 AM 8:42

HOUSE OF REPRESENTATIVES

FILED FEB 21 1989

By SWIFT

HB. No. 1329

A BILL TO BE ENTITLED

AN ACT

relating to review by the Texas Water Commission of certain
permitted but unconstructed storage reservoirs.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter D, Chapter 11, Water Code, is amended
by adding Section 11.153 to read as follows:

Sec. 11.153. FAILURE TO CONSTRUCT AUTHORIZED STORAGE
RESERVOIRS. (a) On its own motion, or the motion of the executive
director, the commission may review a water right evidenced by a
permit, certified filing, certificate of adjudication or amendment
to such a permit, filing, or certificate authorizing construction
of a storage reservoir, the construction of which is not completed
on the 25th anniversary of the date on which the water right was
originally granted by the commission or its predecessor agency, to
determine whether the water right should be modified or canceled in
whole or in part.

(b) In conducting a review under this section, the
commission shall consider, in accordance with all laws and
regulations applicable at the time of the review, whether
modification or cancellation of the water right is necessary to
conserve or protect:

(1) state water;

(2) the quality of state water;

(3) in-stream uses;

1 (4) beneficial inflows to the state's bays and
2 estuaries;

3 (5) fish and wildlife habitats; or

4 (6) other natural resources of the state.

5 (c) On initiation of the review authorized by this section,
6 the executive director shall prepare for submission to the
7 commission a written report setting forth the executive director's
8 recommendation concerning modification or cancellation of the water
9 right and the basis of that recommendation. Before the 30th day
10 before the date of the commission hearing on the executive
11 director's report, the commission shall:

12 (1) send notice of the hearing by first class mail,
13 postage prepaid, to the owner of record of the water right; and

14 (2) publish notice of the hearing at least once in a
15 newspaper with general circulation in each county where the water
16 right is located.

17 (d) The notice must contain a general description of the
18 issues to be considered by the commission at the hearing, a summary
19 of the recommendations in the executive director's report, and the
20 date, time, and place of the commission hearing.

21 (e) If the commission determines that a water right should
22 be modified, the commission shall issue an amendment to the water
23 right containing the necessary modifications. If the commission
24 determines that a water right should be canceled either in whole or
25 in part, the commission shall issue an order canceling the right to
26 the extent necessary.

27 SECTION 2. The importance of this legislation and the

1 crowded condition of the calendars in both houses create an
2 emergency and an imperative public necessity that the
3 constitutional rule requiring bills to be read on three several
4 days in each house be suspended, and this rule is hereby suspended,
5 and that this Act take effect and be in force from and after its
6 passage, and it is so enacted.

HOUSE COMMITTEE REPORT

1st Printing

HOUSE COMMITTEE REPORTS
83 APR -7 PM 10:00

By Swift

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COMMITTEE REPORT

The Honorable Gib Lewis
Speaker of the House of Representatives

4-6-89
(date)

Sir:

We, your COMMITTEE ON NATURAL RESOURCES,

to whom was referred HB 1329 have had the same under consideration and beg to report
(measure)
back with the recommendation that it

(x) do pass, without amendment.
() do pass, with amendment(s).
() do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

A fiscal note was requested. (x) yes () no An actuarial analysis was requested. () yes (x) no

An author's fiscal statement was requested. () yes (x) no

A criminal justice policy impact statement was prepared. (x) yes () no

A water development policy impact statement was requested. () yes (x) no

() The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars for placement on the () Local, () Consent, or () Resolutions Calendar.

This measure () proposes new law. (x) amends existing law.

House Sponsor of Senate Measure _____

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Smith, T., Ch.	X			
Willy, V.C.	X			
Collazo, C.B.O.	X			
Culberson	X			
Holzheuser	X			
Junell	X			
Swift	X			
Wentworth	X			
Yost	X			

Total
9 aye
0 nay
0 present, not voting
0 absent

Terral
CHAIRMAN
Deborah K. Warr
COMMITTEE COORDINATOR

BILL ANALYSIS

Background

In 1985 the legislature amended the Texas Water Code to allow the Water Commission to consider conditions such as conservation, instream uses, estuarine inflows, habitat mitigation, and effects on water quality of new water rights permit applications. To implement this policy consistently the commission must be able to apply it to certain existing water rights permits. However, most existing permits were issued for perpetual terms, and under current law are not subject to review.

Purpose of the Bill

This bill would allow limited review of water rights for certain permitted but unconstructed reservoirs to help provide a consistent implementation of state policy.

Section by Section Analysis

Section 1. Amends Subchapter D, Chapter 11, Water Code, by adding Section 11.153 to provide that the Commission may review and modify water rights for reservoirs not completed 25 years after permits for them were issued. The commission may consider the maintenance of water quality, conservation, instream uses, habitats, estuarine inflows, and other resources in its review. The Commission is required to obtain a report from the executive director, publish notice of review, notify the right holder and hold a public hearing before issuing its ruling.

Section 2. Emergency clause.

Rulemaking Authority

It is the opinion of this committee that this bill does not delegate rulemaking authority to any state agency, officer, department, or institution.

Summary of Committee Action

HB 1329 was considered in public hearing on March 15, 1989. Representative Swift explained his bill. Buck Wynne of the Texas Water Development Board testified as a resource witness on the bill. There were no other witnesses. HB 1329 was referred to subcommittee. The subcommittee on HB 1329 met on March 21, 1989 in formal meeting. The motion to report the bill favorably to the full committee carried with a vote of 2 ayes, 0 nays, 0 PNV and 1 absent. The full committee considered HB 1329 in formal meeting on April 6, 1989. The motion to report the bill favorably to the full house carried with a vote of 9 ayes, 0 nays, 0 PNV, and 0 absent.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

March 15, 1989

TO: Honorable Terral Smith, Chair
Committee on Natural Resources
House of Representatives
Austin, Texas

In Re: House Bill No. 1329
By: Swift

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Bill No. 1329 (relating to review by the Texas Water Commission of certain permitted but unconstructed storage reservoirs) this office has determined the following:

The bill would allow the Water Commission to review, and consider modifying or canceling, a water right authorizing construction of a storage reservoir if the reservoir is not completed by the 25th anniversary of the date the water right was initially granted.

No fiscal implication to the State or units of local government is anticipated.

Criminal Justice Policy Impact Statement: No change in the sanctions applicable to adults convicted of felony crimes is anticipated.

Source: Water Commission;
LBB Staff: JO, JWH, AL, WRC, PA

ADOPTED

MAY 8 1989

Betty Murray
Chief Clerk
House of Representatives

AMENDMENT NO. 1

BY Swift

- 1 Amend H.B. 1329, on page 1, line 14, by striking "granted"
- 2 and substituting "issued".

(2) Amendment by RUSSELL

H. B. 1329

Amend H. B. 1329, Section 1, by adding a new subsection (e) and renumbering the existing subsection (e) as subsection (f):

(e) Prior to the cancellation of a water right in whole or in part, the commission shall consider the impact of such a decision on the economic development in the area to be served by the authorized but unconstructed storage reservoir.

ADOPTED

MAY 8 1989

Betty Murray
Chief Clerk
House of Representatives

05 MAY -8 PM 0:05
LEGISLATIVE CLERK

ENGROSSED
SECOND READING

By Swift

H.B. No. 1329

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(1) state water;

(2) the quality of state water;

(3) in-stream uses;

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2 estuaries;

3 (5) fish and wildlife habitats; or

4 (6) other natural resources of the state.

5 (c) On initiation of the review authorized by this section,
6 the executive director shall prepare for submission to the
7 commission a written report setting forth the executive director's
8 recommendation concerning modification or cancellation of the water
9 right and the basis of that recommendation. Before the 30th day
10 before the date of the commission hearing on the executive
11 director's report, the commission shall:

12 (1) send notice of the hearing by first class mail,
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7 constitutional rule requiring bills to be read on three several
8 days in each house be suspended, and this rule is hereby suspended,
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10 passage, and it is so enacted.

3rd READING

①

By: Polumbo

House Bill]329

House Floor Amendment No.] on 3rd reading

Amend H.B.]329 by adding a new subsection (f) at the end of the amendment to Sec. ||.]53 as contained in SECTION] of the bill.

4 (f) If the Commission modifies a permit or cancels a permit, all costs expended by a permit holder or any governmental entity in furtherance of the original permit which is made unnecessary by the modification or cancellation shall be reimbursed.

ADOPTED

MAY 9 1989

Betty M. Mearns
Chief Clerk
House of Representatives

HOUSE ENGROSSMENT

SENATE
COM. 11-5-1953

By Swift

H.B. No. 1329

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27 right containing the necessary modifications. If the commission

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2 in part, the commission shall issue an order canceling the right to
3 the extent necessary.

4 (g) If the commission modifies a permit or cancels a permit,
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11 constitutional rule requiring bills to be read on three several
12 days in each house be suspended, and this rule is hereby suspended,
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LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

March 15, 1989

TO: Honorable Terral Smith, Chair
Committee on Natural Resources
House of Representatives
Austin, Texas

In Re: House Bill No. 1329
By: Swift

FROM: Jim Oliver, Director

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No fiscal implication to the State or units of local government is anticipated.

Criminal Justice Policy Impact Statement: No change in the sanctions applicable to adults convicted of felony crimes is anticipated.

Source: Water Commission;
LBB Staff: JO, JWH, AL, WRC, PA

SENATE FAVORABLE COMMITTEE REPORT

Lt. Governor William P. Hobby
President of the Senate

5-26-89
(date)/(time)

Sir:

We, your Committee on NATURAL RESOURCES to which was referred
HB 1329 by Swift have on 5-26, 1989, had the same
(measure) (sponsor) (hearing date)

under consideration and I am instructed to report it back with the recommendation (s) that it

☒ do pass and be printed

() do pass and be ordered not printed

() and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. ☒ yes () no

A revised fiscal note was requested. () yes () no

An actuarial analysis was requested. () yes () no

Considered by subcommittee. () yes () no

Senate Sponsor of House Measure Armbrister

The measure was reported from Committee by the following vote:

	YEA	NAY	PNV	ABSENT
Santiesteban, Chairman	<input checked="" type="checkbox"/>			
Lyon, Vice Chairman	<input checked="" type="checkbox"/>			
Armbrister	<input checked="" type="checkbox"/>			
Bivins				
Brown	<input checked="" type="checkbox"/>			
Carriker	<input checked="" type="checkbox"/>			
Montford				
Ratliff	<input checked="" type="checkbox"/>			
Sims		<input checked="" type="checkbox"/>		
Uribe				
Zaffirini				
TOTAL VOTES	<u>6</u>	<u>1</u>		

Grace M. Clement
COMMITTEE CLERK

[Signature]
CHAIRMAN

By: Swift (Senate Sponsor - Armbrister) H.B. No. 1329
(In the Senate - Received from the House May 10, 1989;
May 11, 1989, read first time and referred to Committee on Natural
Resources; May 26, 1989, reported favorably by the following vote:
Yeas 6, Nays 1; May 26, 1989, sent to printer.)

COMMITTEE VOTE

	Yea	Nay	PNV	Absent
Santiesteban	x			
Lyon	x			
Armbrister	x			
Bivins				x
Brown	x			
Carriker	x			
Montford				x
Ratliff	x			
Sims		x		
Uribe				x
Zaffirini				x

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* * * * *

Austin, Texas
May 26, 1989

Hon. William P. Hobby
President of the Senate

Sir:

We, your Committee on Natural Resources to which was referred H.B. No. 1329, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed.

Santiesteban, Chairman

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

May 15, 1989

TO: Honorable H. Tati Santiesteban, Chairman
Committee on Natural Resources
Senate Chamber
Austin, Texas

In Re: House Bill No. 1329,
as engrossed
By: Swift

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Bill No. 1329, as engrossed (relating to review by the Texas Water Commission of certain permitted but unconstructed storage reservoirs) this office has determined the following:

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Source: Water Commission;
LBB Staff: JO, JWH, AL, WRC, BL

LEGISLATIVE BUDGET BOARD

Austin, Texas

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House of Representatives
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H. B. No. 1329

By SWIFT

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unconstructed storage reservoirs.

FEB 21 1989

1. Filed with the Chief Clerk.

MAR 6 1989

2. Read first time and Referred to Committee on

Natural Resources

APR 6 1989

3. Reported favorably (~~as amended~~) (~~as substituted~~) and sent to Printer at 1:13pm

APR 7 1989

APR 7 1989

4. Printed and distributed at 10:00pm

APR 11 1989

5. Sent to Committee on Calendars at 3:32pm

MAY 8 1989

6. Read second time (amended) passed to third reading (failed) by (Non-Record Vote)
(Record Vote of yeas, nays, present, not voting).

7. Motion to reconsider and table the vote by which H.B. was ordered
engrossed prevailed (failed) by a (Non-Record Vote) (Record Vote of yeas,
 nays, and present, not voting).

8. Constitutional Rule requiring bills to be read on three several days suspended (failed
to suspend) by a four-fifths vote of yeas, nays, and
present, not voting.

MAY 1 1989

Motion to postpone further consideration
of HB No. 1329 until Thurs
May 4 at 10am
prevailed by a non-record vote.

MAY 9 1989

9. Read third time (amended) finally passed (failed) by (Non-Record Vote) (yeas, nays, present, not voting).

10. Caption ordered amended to conform to body of bill.

11. Motion to reconsider and table the vote by which H. B. was finally passed
prevailed (failed) by a (Non-Record Vote) (Record Vote of yeas,
nays, and present, not voting).

MAY 9 1989

12. Ordered Engrossed at 11:24am

MAY 9 1989

13. Engrossed.

MAY 9 1989

14. Returned to Chief Clerk at 4:54pm

MAY 10 1989

15. Sent to Senate.

Betty Murray
Chief Clerk of the House

MAY 10 1989

16. Received from the House

MAY 11 1989

17. Read, referred to Committee on NATURAL RESOURCES

MAY 26 1989

18. Reported favorably

19. Reported adversely, with favorable Committee Substitute; Committee Substitute read
first time.

20. Ordered not printed.

21. Regular order of business suspended by

(a viva voce vote.)
(yeas, nays.)

MAY 4 1989

Motion to postpone further consideration
of HB No. 1329 until Mon
May 8 at 2pm
prevailed by a non-record vote.

89 MAY -9 PM 4:54

RECEIVED

22. To permit consideration, reading and passage, Senate and Constitutional Rules suspended by vote of _____ yeas, _____ nays.

23. Read second time _____ passed to third reading by:
(a viva voce vote.)
(_____ yeas, _____ nays.)

24. Caption ordered amended to conform to body of bill.

25. Senate and Constitutional 3-Day Rules suspended by vote of _____ yeas,
_____ nays to place bill on third reading and final passage.

26. Read third time and passed by
(a viva voce vote.)
(_____ yeas, _____ nays.)

OTHER ACTION:

OTHER ACTION:

Secretary of the Senate

27. Returned to the House.

28. Received from the Senate (with amendments,
(as substituted.)

29. House (Concurred) (Refused to Concur) in Senate (Amendments) (Substitute) by a (Non-Record
Vote) (Record Vote of _____ yeas, _____ nays, _____ present,
not voting).

30. Conference Committee Ordered.

31. Conference Committee Report Adopted (Rejected) by a (Non-Record Vote) (Record
Vote of _____ yeas, _____ nays, and _____ present, not voting).

32. Ordered Enrolled at _____

HOUSE OF REPRESENTATIVES

89 APR -7 PM 10:00

89 MAY -8 PM 8:05

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